

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4451

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL CHASE HARRIS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:14-cr-00076-MSD-DEM-1)

Submitted: June 10, 2016

Decided: June 28, 2016

Before KING and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Gregory B. English, ENGLISH LAW FIRM, PLLC, Alexandria, Virginia, for Appellant. Dana J. Boente, United States Attorney, Elizabeth M. Yusi, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Chase Harris appeals his 600-month sentence following jury convictions for 13 counts of production of child pornography, 6 counts of use of a facility of interstate commerce to entice a minor to engage in criminal sexual activity, 7 counts of receipt of child pornography, 2 counts of transportation of child pornography, possession of child pornography, and 2 counts of obstruction of justice. Harris also challenges the district court's denial of his Fed. R. Crim. P. 29 motion for a judgment of acquittal, arguing that there was insufficient evidence to sustain two of his convictions. Finding no error, we affirm.

First, we find no error in the district court's denial of Harris' motion for judgment of acquittal. "A defendant challenging the sufficiency of the evidence faces a heavy burden." United States v. Foster, 507 F.3d 233, 245 (4th Cir. 2007). "A jury's verdict must be upheld on appeal if there is substantial evidence in the record to support it." Id. at 244. Evidence is substantial if, in the light most favorable to the government, "there is evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." Id. at 245. Because we find that the evidence at trial was sufficient to

support the jury's verdict, we conclude that the district court did not err in denying Harris' Rule 29 motion.

We next turn to Harris' sentence, which we review for both procedural and substantive reasonableness "under a deferential abuse-of-discretion standard." Gall v. United States, 552 U.S. 38, 41 (2007). We must ensure that the district court committed no significant procedural error, such as improperly calculating the Guidelines range. Id. at 51. If there is no significant procedural error, we then consider the sentence's substantive reasonableness under "the totality of the circumstances, including the extent of any variance from the Guidelines range." Id. We presume that a sentence below a properly calculated Guidelines range is reasonable. United States v. Louthian, 756 F.3d 295, 306 (4th Cir.), cert. denied, 135 S. Ct. 421 (2014). A defendant can rebut this presumption only "by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors." Id.

Harris concedes that the district court did not err in calculating an advisory Guidelines range of life imprisonment, but he contends that his sentence is substantively unreasonable. Having reviewed the record, we conclude that Harris has not made the showing necessary to rebut the presumption that his below-Guidelines sentence is reasonable.

Accordingly, we affirm the judgment of the district court. We deny Harris' motions to appoint counsel and for leave to file a pro se supplemental brief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED